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HEAD-LIPSCOMB-McCORMICK CO., Inc. v. CITY OF
BRISTOL.

Sept. 16, 1920.

[105 S. E. 500]

1. Municipal Corporations (§ 225 (1)*)—When Municipal Corporations May Dispose of Land and Property.—While at common law a municipal corporation could, unless restrained by its charter, dispose of its lands and other property just as private individuals could, in this country it is generally held that a municipal corporation has no implied power to sell property which is devoted to public use; but property of which the public use has ceased, or which has never been devoted to a public use, may be sold by the municipality owning it, by virtue of its implied power.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 220]

2. Municipal Corporations (§ 225 (3)*)—Land Sold by City Held Not to Have Been Dedicated to Public Use.—Where the city of Bristol purchased a tract of less than two acres of land on which to construct a courthouse, held, that the mere purchase of the property did not operate as a dedication to public use, in that Code 1919, § 2854, authorizes the purchase of two acres for a courthouse, jail, etc., and that the city had power to sell a portion of such land to a manufacturing company, under Bristol City Charter, § 28; the city having constructed the courthouse on part of the tract, and having rented the part subsequently sold for many years for industrial purposes, a factory having been situated thereon at the time of the purchase and sale by the city.

3. Municipal Corporations (§ 63 (1)*)—Court Cannot Determine Whether it Was Wise or Unwise in City Sell Land.—In an action to set aside a conveyance of land by a city council, the question before the court is not whether it was wise or unwise for the city to sell the property; that being a question of public policy for the city council.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 223.]
Sims, J., dissenting.

Appeal from Circuit Court, Washington County.

Bill by the City of Bristol against the Head-Lipscomb-McCormick Company, Incorporated. Decree for plaintiff, and defendant appeals. Reversed.

Peters, Lavinder & Peters, of Bristol, for appellant.

Henry Roberts, S. V. Fulkerson, and *D. F. Bailey*, all of Bristol, for appellee.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes